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11 TRUST, EDRA BLIXSETH and OPSRING LLC

12 **UNITED STATES DISTRICT COURT**  
13 **DISTRICT OF NEVADA**  
14

15 DENNIS MONTGOMERY and the  
MONTGOMERY FAMILY TRUST,

16 Plaintiffs,

17 vs.

18 ETREPPID TECHNOLOGIES, LLC, WARREN  
19 TREPP, and the UNITED STATES  
DEPARTMENT OF DEFENSE,

20 Defendants.  
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AND RELATED CASES.

) Case No. 3:06-CV-00056-PMP-VPC  
) BASE FILE

) (Consolidated with Case No. 3:06-CV-  
) 00145-PMP-VPC)

) **PLAINTIFFS' OPPOSITION TO THE**  
) **TREPP PARTIES' MOTION TO**  
) **CERTIFY JUDGMENTS**

) **[DECLARATION OF ELLYN S.**  
) **GAROFALO IN SUPPORT OF**  
) **OPPOSITION BEING MANUALLY**  
) **FILED UNDER SEAL DECEMBER 19,**  
) **2008]**

**MEMORANDUM OF POINTS AND AUTHORITIES****I.****INTRODUCTION**

Pursuant to 28 U.S.C. § 1963 (“Section 1963”), eTreppid Technologies, LLC and Warren Trepp (collectively, the “Trepp Parties”) seek early certification of the judgments entered against Edra Blixseth (“Ms. Blixseth”), Dennis Montgomery, Brenda Montgomery, the Montgomery Family Trust, Blxware, Inc. and Opspring LLC (collectively, the “Blixseth Parties”). Although Section 1963 provides for certification when the judgment has become final by appeal or when the time to appeal has expired (in this case on January 12, 2009), the Court has the discretion to certify the judgment earlier “for good cause shown.”

The Trepp Parties urge that there is “good cause” for early certification prior to expiration of the time to appeal on January 12, 2009, because (1) the judgments were entered by confession of judgment and thus appeal is unlikely; (2) the Trepp Parties are “informed and believe” that there are no assets in the State of Nevada and thus there is “the strong likelihood that any assets that may be used to satisfy the judgments are likely located outside of the State of Nevada”; and (3) Ms. Blixseth failed to provide collateral which “provides reason to believe that the collateral may be lost or impaired.”

As explained below, the Trepp Parties fail to show the good cause required for early certification of the judgments.

**II.****THE TREPP PARTIES FAIL TO ESTABLISH GOOD****CAUSE FOR EARLY CERTIFICATION**

As a preliminary matter, even assuming that the Trepp Parties identified assets outside the State of Nevada, this is not the “good cause” contemplated by Section 1963. Rather, in every case where certification is sought, assets are believed to be in other districts. This mere existence of assets in other jurisdictions is not good cause. Moreover, the Trepp Parties fail to present any evidence that assets available to satisfy their judgments exist solely outside the State of Nevada or

1 that any assets are in danger of being “lost or impaired.”<sup>1</sup> These allegations are made solely on  
 2 information and belief.

3 In fact, the Trepp Parties well know that there are significant assets belonging to the  
 4 judgment debtors not only in the State of Nevada, but in the possession and control of **the Trepp**  
 5 **Parties**. In light of the confidentiality provision in the Settlement Agreement, facts relating to the  
 6 Trepp Parties’ possession and control of these assets, are set forth in the Declaration of Ellyn S.  
 7 Garofalo which is being filed simultaneously under seal. As explained in the sealed Declaration,  
 8 significantly valuable assets belonging to the Blixseth Parties are not only in Nevada, but are in the  
 9 possession of the Trepp Parties so that there is no danger that they will be “impaired or lost.”  
 10 Accordingly, the Trepp Parties fail establish the “good cause” required to shorten the thirty-day  
 11 period for certification of the judgments under Section 1963.

### 12 **III.**

### 13 **CONCLUSION**

14 For the foregoing reasons, and those set forth in the sealed Declaration of Ellyn S. Garofalo,  
 15 the Blixseth Parties respectfully request that the Trepp Parties’ request for early certification be  
 16 denied.

17  
 18 Dated: December 19, 2008

Respectfully submitted,

19 LINER YANKELEVITZ  
 20 SUNSHINE & REGENSTREIF LLP

21 By: /s/ Ellyn S. Garofalo

22 Ellyn S. Garofalo  
 23 Attorneys for DENNIS MONTGOMERY,  
 24 the MONTGOMERY FAMILY TRUST,  
 25 EDRA BLIXETH and OPSRING LLC

26 <sup>1</sup> Ms. Blixseth was relieved of the obligation to provide collateral by the filing of the confessions  
 27 of judgment. Thus, the failure to provide collateral is not evidence that assets are being “lost or  
 28 impaired.” Moreover, disclosure of this provision of the Settlement Agreement constitutes a  
 violation of the Settlement Agreement’s confidentiality provision, over which this Court has  
 retained jurisdiction. The Trepp Parties’ Motion to Certify Judgments should therefore be placed  
 under seal.

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of the Law Offices Of Liner Yankelevitz Sunshine & Regenstreif LLP, and that on December 19, 2008, I caused to be served the within document described as **PLAINTIFFS' OPPOSITION TO THE TREPP PARTIES' MOTION TO CERTIFY JUDGMENTS** on the interested parties in this action as stated below:

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☒ **[ELECTRONIC]** By filing the document(s) electronically with the U.S. District Court and therefore the court's computer system has electronically delivered a copy of the foregoing document(s) to the persons listed above at their respective email address.

1 I declare under penalty of perjury under the laws of the State of California and the United  
2 States of America that the foregoing is true and correct.

3 Executed on December 19, 2008, at Los Angeles, California.

4 Ellyn S. Garofalo  
(Type or print name)

/s/ Ellyn S. Garofalo  
(Signature)